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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,911	03/12/2001	Eric B. Allen	58207.000004	7159

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EXAMINER

MORAN, MARJORIE A

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,911

Applicant(s)

ALLEN ET AL.

Examiner

Marjorie A. Moran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/9/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,5 and 7-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5 and 7-14 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. All rejections and objections not reiterated below are hereby withdrawn.

Claim Objections

Claim 1 is objected to because of the following informalities: the term "and" after "information" in part (iv) is redundant and should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

New claim 14 limits concepts to be those "capable of joining other concepts." However, parent claim 1 limit concepts to those which are "adapted to inherit from other concepts". It is unclear if the concepts of claim 14 are intended to replace those of claim 1, or whether applicant intends a multiplicity of concepts; e.g. those adapted to inherit from other concepts **and** concepts capable of joining other concepts or intends to further limit the concepts; e.g. concepts adapted to inherit from other concepts **which are also** capable of joining other concepts, therefore the claim is indefinite. It is noted that concepts which can both join other concepts and simultaneously inherit from other concepts may be new matter as such concepts are not supported by the originally filed specification or claims; however, as it is unclear what limitation applicant actually intends, claim 14 is rejected herein only for indefiniteness. For purposes of search and applying the prior art, the examiner interprets claim 14 to recite a multiplicity of concepts; i.e. those with properties separate from the concepts of claim 1, as set forth in the original claims.

Claim Rejections - 35 USC § 102

Claims 1, 4-5, and 7-14 are rejected under 35 U.S.C. 102(a) and (e) as being anticipated by THALHAMMER-REYERO (US 5,930,154).

THALHAMMER-REYERO teaches a system comprising a database of cellular reactions (Figure 1) linked to an inference engine to “dynamically simulate” intra- and intercellular pathways (i.e. concepts; col. 5, lines 16-20 and col. 6, lines, 38-43) wherein such pathways may be those of signal transduction (col. 14, lines 64-68). THALHAMMER-REYERO teaches that his system may comprise biochemical information, may simulate cross-talk between pathways; i.e. that concepts may be joined, and may comprise concepts which are linked in a particular order (i.e. which “inherit”) from each other (col. 14, line 64-col. 15, line 3 and Figure 1), thus anticipating claims 1 and 9. THALHAMMER-REYERO further teaches that his concepts may comprise other concepts and, by showing the separation of concepts, necessarily teaches that some concepts exclude other concepts (e.g. the cell of Figure 1 includes other concepts; the nucleus excludes other concepts within the cell), therefore claims 4 and 5 are anticipated. THALHAMMER-REYERO teaches that his system may comprise pathological conditions within physiological spaces and time intervals (col. 6, lines 25-44), thus anticipating claims 7-8 and 10-11. THALHAMMER-REYERO further teaches that his system may include information pertaining to cells and cellular interactions (i.e. a cellular environment), and reaction rates (col. 11, lines 2-10), thus anticipating claims 12-13.

Applicant argues in the response filed 2/9/05 that THALHAMMER-REYERO does not teach a “dynamic” database. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a database which may be completely configured by an end-user) are not recited in

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the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In addition, THALHAMMER-REYERO actually teaches in col. 19, lines 9-12 that his inference and simulation methodology is not available for manipulation by an end-user. He does specifically teach that a modeler (user) can expand his library of building blocks (i.e. can add to the database; col. 19, lines 19-22), can create dynamic interactive pathways (col. 19, lines 25-30) and can dynamically create a simulation panel through user-modifiable experiment panels (col. 20, lines 3-8). Thus, even if a "dynamic" database were defined to be capable of manipulation by a user, the examiner maintains that THALHAMMER-REYERO does teach such a database.

For these reasons and those previously set forth, the rejection is maintained.

Conclusion

Claims 1, 4-5 and 7-14 are rejected and claim 1 is also objected to.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marjorie A. Moran whose telephone number is (571) 272-0720. The examiner can normally be reached on Mon,Wed: 7-1:30; Tue,Thur: 7:30-6; Fri 7-3:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on (571)272-0718. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marjorie A. Moran
Primary Examiner
Art Unit 1631

Marjorie A. Moran
5/16/05